

## CIVIL SERVICE COMMISSION MINUTES

April 7, 1999

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Gloria Valencia-Cothran  
Roy Dixon  
Mary Gwen Brummitt  
Sigrid Pate  
Gordon Austin

Comprising a quorum of the Commission

Larry Cook, Executive Officer  
Ralph Shadwell, Deputy County Counsel  
Selinda Hurtado-Miller, Reporting

**CIVIL SERVICE COMMISSION MINUTES**  
**April 7, 1999**

1:30 p.m.      CLOSED SESSION: Closed Session was not held due to requests from applicants to be heard in Open Session.

2:30 p.m.      OPEN SESSION: Room 358, 1600 Pacific Highway,  
San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
10,11,13,14			6,7,8,9

COMMENTS Motion by Pate to approve all items not held for discussion; seconded by Dixon. Carried.

**CLOSED SESSION AGENDA**  
**County Administration Center, Room 458**  
**(Notice pursuant to Government Code Sec. 54954.2)**  
**Members of the Public may be present at this**  
**location to hear the announcement of the**  
**Closed Session Agenda**

Closed Session Agenda was not heard due to requests from applicants to be heard in Open Session.

**MINUTES**

1. Approval of the Minutes of the regular meeting of March 3, 1999.
- Approved.**

**OFF-DOCKET DISCUSSION**

A discussion concerning the Commission's practice at meetings, governed by the Ralph M. Brown Act, which gives the public the right to address the Commission before or during the consideration of any item, was initiated at the request of Richard Pinckard, Esq.. It was Mr. Pinckard's position that individuals or their representatives would be better served if they had the opportunity to address the Commission subsequent to the reading of the findings and decision, and prior the Commission's final vote. Mary Grove, Esq., provided input on behalf of the Sheriff's Department requesting the Commission to remain status quo. Commissioners Valencia-Cothran, Dixon, Brummitt, Austin and Pate had an open discussion, including advice from Deputy County Counsel, Ralph Shadwell, regarding Mr. Pinckard's concerns. There was also discussion regarding the option given to

appellants to have certain matters discussed in open versus closed session. It was the consensus of the Commission that discussions in closed session is most beneficial to all involved parties. It was also the consensus of the Commission that it should not change its practice of allowing employees or their representatives to address them prior to reading of the findings and decision.

**Motion by Valencia-Cothran to affirm the Commission's procedure regarding parties addressing the Commission prior to the decision being read. Seconded by Pate. Carried.**

#### **CONFIRMATION OF ASSIGNMENTS/REASSIGNMENTS**

2. Commissioner Austin as hearing officer in the appeal of **Ronald Portz** appealing an Order of Suspension from the Marshal's Office.

**Confirmed.**

3. Commissioner Pate as hearing officer in the appeal of **David Lopez** appealing a reassignment of duties resulting in a Reduction in Compensation by the Sheriff's Department.

**Confirmed.**

4. Commissioner Dixon as hearing officer in the appeal of **Jose Samuel Murillo** appealing an Order of Removal from the Health and Human Services Agency.

**Confirmed.**

5. Commissioner Brummitt as hearing officer in the appeal of **Patricia A. McElhaney** appealing an Order of Removal from the Department of Planning and Land Use.

**Confirmed.**

#### **WITHDRAWALS**

6. Commissioner Austin: Clare Maudsley, Esq. on behalf of **Julie Georgeski** appealing an Order of Compulsory Leave from the Health and Human Services Agency.

**Withdrawn.**

7. Commissioner Pate: Stewart Kocivar, S.E.I.U. Local 535, on behalf of **Gerald Campana** appealing an Order of Compulsory Leave from the Health and Human Services Agency.

**Withdrawn.**

8. Commissioner Dixon: **Teresita E. Jones** appealing an Order of Termination from the Treasurer-Tax Collector.

**Withdrawn.**

9. Commissioner Brummitt: Fern Steiner, Esq. on behalf of **Frank Cannon** appealing a reassignment of duties resulting in a Reduction of Compensation from the Sheriff.

**Withdrawn.**

#### **DISCIPLINARY FINDINGS**

10. Commissioner Brummitt: Bradley Fields, Esq., on behalf of **Ronald Portz** appealing an Order of Suspension from the Marshal's Office.

##### **FINDINGS AND RECOMMENDATIONS:**

Bradley Fields, Esq., on behalf of Mr. Portz, addressed the Commission, stating that any alleged wrongdoing by his client was committed after the verdict was rendered. He stated that no harm was caused to the court system or the Marshal's office by Mr. Portz.

Employee was charged with Cause I - incompetence; (contact with family members of the defendant); Cause II - insubordination; Cause III - conduct unbecoming an officer; Cause IV - failure of good behavior. Employee has been a Court Service Officer in the Office of the Marshal for approximately 7 years. Employee was assigned as extra security in a high profile murder-for-hire trial. Employee became inappropriately involved with family members of the defendant. The charges described in Causes 1-4 of the Order of Suspension were proven to be true. It is therefore recommended that the Order of Suspension is affirmed; and the proposed decision shall become effective upon the date of approval by the Civil Service Commission and that the Commission approve and file this report.

**Motion by Brummitt to approve Findings and Recommendations; seconded by Pate. Carried.**

11. Commissioner Valencia-Cothran: Richard Pinckard, Esq., on behalf of **Stephen Tillotson** appealing an Order of Termination from the Sheriff's Department.

##### **FINDINGS AND RECOMMENDATIONS:**

Richard Pinckard, Esq., on behalf of Mr. Tillotson, asked the Commission to consider the "good" employment history of Employee, and to consider the evidence already reviewed.

Mary Grove, Esq., on behalf of the Sheriff's Department, expressed that honesty is a critical characteristic of a peace officer and Mr. Tillotson is unable to fulfill his duties to the public.

Employee was charged with Cause I - dishonesty (untruthful re attendance and successful completion of a qualification shoot); Cause II - dishonesty (untruthful statements regarding shooting on May 27, 1998); Cause III - dishonesty (untruthful about not qualifying at the shooting range); Cause IV - dishonesty (providing a falsified qualification card); Cause V - inefficiency; Cause VI - acts incompatible or inimical to the public service. Employee was a Deputy Sheriff in the Sheriff's Department stationed at the George Bailey Detention Facility and was recently assigned to serve as a Training Officer. Employee was scheduled to attend his quarterly weapons qualification shoot. Employee did not attend his scheduled shoot and was untruthful to his supervisor when asked about it. Employee provided his supervisor with a qualification stub which belonged to another deputy. This hearing officer concludes that Employee spun a web of deceit to cover up his original untruthfulness. The charges described in Causes I, II, III, IV, V and VI in the Order of Termination and charges were proven to be true. It is therefore recommended that the Order of Termination is affirmed; and the proposed decision shall become effective upon the date of approval by the Civil Service Commission and that the Commission approve and file this report.

**Motion by Valencia-Cothran to approve Findings and Recommendations; seconded by Pate. Carried.**

## **SELECTION PROCESS FINDINGS/COMPLAINTS**

### **Findings**

12. **Philip Chen** appeal of removal of his name by DHR from the employment list for Field Service Officer.

RECOMMENDATION: Ratify item No. 11. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

**Item No. 12 ratified.**

### **Complaints**

13. **Lawrence Mark Klisura**, appealing his non-selection by the Department of Public Works (DPW) for Department Safety Coordinator/Safety Officer.

RECOMMENDATION: Deny request.

Mr. Klisura addressed the Commission to state that the selection process seemed to be "out of order" and that DPW, though not violating a specific rule, casts doubt re the merit system relating to selecting candidates. He felt that an unfair advantage was given to the person in the position who was "acting" as the DPW Safety Coordinator. He also stated that he was confused by the selection process. He requested a re-evaluation by DHR for the Safety Coordinator classification.

Diane Jaynes addressed the Commission on behalf of DPW regarding the unusual circumstances regarding the position of Safety Coordinator. Due to the passing of time, the Department selected the best qualified person to "act" as Safety Coordinator before the actual selection process was commenced. She stated that when the actual hiring process begins, Mr. Klisura is welcome to apply for the position.

**Motion by Brummitt to approve staff recommendation; seconded by Austin. Carried.**

## **RECONSIDERATION**

14. John Richards, Esq. on behalf of **Alicia Mariscal** requesting reconsideration of the Commission's Rule XI investigation and report relating to the manner in which Ms. Mariscal's employment ended with the Department of Agriculture, Weights and Measures.

RECOMMENDATION: Deny request.

Mr. Richards, on behalf of Ms. Mariscal, addressed the Commission pointing out that Ms. Mariscal had allegedly been put through an inordinate amount of stress while working with the Department of Agriculture, Weights and Measures, and asked that the Commission take this into consideration before rendering its decision.

The Commission determined that the Department did not violate the merit basis of the personnel system, and that Complainant's claim of constructive discharge be denied;

**Motion by Pate to approve staff recommendation; seconded by Brummitt. Carried.**

## **OTHER MATTERS**

### **Performance Appraisals**

15. Theodore Burnett, S.E.I.U. Local 2028, on behalf of **Shahla Abtahi Sepah**, Public Health Nurse III, Health and Human Services Agency requesting the sealing of her performance appraisal covering the period June 19, 1998 to October 13, 1998.

RECOMMENDATION: Approve request.

**Staff Recommendation approved.**

### **Extension of Temporary Appointments**

16. Alternate Public Defender

2 Graduate Attorneys (James McMahon and Erin Lehrter)

17. Public Administrator

1 Estate Assistant (Leticia B. Faucher)

18. Sheriff's Department

1 Administrative Assistant I (Charles T. Smallenberger, Jr.)

19. Auditor and Controller

1 Senior Accountant (Cynthia Day)

RECOMMENDATION: Ratify item Nos. 16 through 19.

**Staff Recommendation approved.**

20. Public Input.

ADJOURNMENT: 4:15 p.m.

**NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE APRIL 21, 1999.**